

AMENDED IN ASSEMBLY APRIL 25, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2728

Introduced by Assembly Member Atkins

February 19, 2016

An act to amend Sections 926.1 and 12939.2 of the Insurance Code, and to amend Sections 12209, 17053.57, and 23657 of the Revenue and Taxation Code, relating to insurance.

LEGISLATIVE COUNSEL’S DIGEST

AB 2728, as amended, Atkins. Insurance: community development investments.

(1) Existing law requires each admitted insurer with annual premiums written in California equal to or less than \$100,000,000 to provide information to the Insurance Commissioner by July 1, 2016, on all of its community development investments, community development infrastructure investments, and green investments, as defined, in California. Existing law defines a community development investment as certain projects, developments, or activities that, among other things, benefit low- or moderate-income individuals or families. Existing law defines community development infrastructure as California public debt where all or a portion of the debt has as its primary purpose community development for, or that directly benefits, low- or moderate-income communities consistent with the types of projects, developments, or activities specified as community development investments. Existing law defines a green investment, among other things, as specified projects offering energy efficiency improvements and renewable energy generation. Existing law requires the insurer to list investments that are ~~high-impact~~, *high impact* which is an investment that is innovative,

responsive to community needs, not routinely provided by an insurer, or has a high degree of positive impact on the economic welfare of low- or moderate-income individuals, families, or communities in urban or rural areas of California.

This bill would instead define a community development investment as certain projects, developments, or activities that, among other things, benefit low- to moderate-income individuals or families. The bill would include investments ~~into~~ *in* reservation-based communities and investments ~~into~~ *in* rural areas, as defined, in community development investments. The bill would instead define community development infrastructure as all California debt where all or a portion of the debt has as its primary purpose community development for, or that directly benefits, low- to moderate-income communities. This bill would include water and waste management and sustainable agriculture projects in the definition of a green investment. The bill would instead define a high-impact investment as an investment that *is innovative, responsive to community needs, not routinely provided by an insurer, and provides at least 50% social or environmental benefit to low- to moderate-income individuals, families, or communities in the state.* The bill would also define “diverse fund managers” as ~~investment management companies that are at least 51% owned by women, veterans, or minorities, or a combination of persons in those groups.~~ *investment managers” as investment management organizations, including, but not limited to, corporations, groups and persons within corporations, partnerships, LLCs, and other special purpose vehicles that are either located in, or actively make and hold investments in, California and whose investment managers are comprised of at least 51% women, veterans, or minorities, or a combination of persons in those groups.*

(2) Existing law authorizes the commissioner, until January 1, 2020, to establish and appoint a California Organized Investment Network (COIN) Advisory Board, as specified.

This bill would extend the commissioner’s authorization to establish and appoint the advisory board until January 1, ~~2027.~~ 2022.

(3) Existing law imposes an annual tax on the gross premiums of an insurer, as defined, doing business in this state at specified rates. Existing law, until January 1, 2017, allows a credit under the Personal Income Tax Law, the Corporation Tax Law, and a credit against the tax imposed on an insurer in an amount equal to 20% of a qualified investment, as defined, made ~~into~~ *in* a community development financial institution, as defined, but not to exceed, in the aggregate amount under all those

laws, \$50,000,000 per year and authorizes the California Organized Investment Network to certify investments for the credit until January 1, 2017. Existing law provides that if a qualified investment is reduced before the end of the 60th month, but not below \$50,000, an amount equal to 20% of the total reduction for the year shall be added to the tax imposed on the taxpayer. *Existing law also provides that if a qualified investment is withdrawn before the end of the 60th month and not reinvested in another community development financial institution within 60 days, the entire amount of any credit previously allowed for that taxable year is required to be added to the tax imposed on the taxpayer.*

This bill would extend the provisions relating to the authorization of the credit and certification by the California Organized Investment Network until January 1, ~~2027~~, 2022. The bill would require priority for the tax credit to be given to insurance company investors. The bill would delete the provision described above relating to a reduction of a qualified investment ~~before the end of the 60th month~~, and would instead *require that the provision regarding withdrawal, without reinvestment, of a qualified investment also apply when a qualified investment is reduced.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. It is the intent of the Legislature that, upon
2 fulfillment of the requirements of Section 926.2 of the Insurance
3 Code by the Department of Insurance related to the California
4 Organized Investment Network program, there shall be future
5 reporting requirements for insurers doing business in California
6 to report to the department through the Community Investment
7 Survey Data Call on community development investments,
8 community development infrastructure investments, green
9 investments, and investments with diverse investment managers.

10 ~~SECTION 1.~~

11 SEC. 2. Section 926.1 of the Insurance Code is amended to
12 read:

13 926.1. As used in this article, the following terms shall have
14 the following meanings:

15 (a) "Area median income" (AMI) means either of the following:

1 (1) The median family income for the Metropolitan Statistical
2 Area (MSA), if a person or geography is located in an MSA, or
3 for the metropolitan division, if a person or geography is located
4 in an MSA that has been subdivided into metropolitan divisions.

5 (2) The statewide nonmetropolitan median family income, if a
6 person or geography is located outside an MSA.

7 (b) “Community development investment” means an investment
8 where all or a portion of the investment has as its primary purpose
9 community development for, or that directly benefits, California
10 low- to moderate-income individuals, families, or communities.
11 “Community development investment” includes, but is not limited
12 to, investments in California in the following:

13 (1) Affordable housing, including multifamily rental and
14 ownership housing, for low- to moderate-income individuals or
15 families.

16 (2) Community facilities or community services providers
17 (including providers of education, health, or social services)
18 directly benefiting low- to moderate-income individuals, families,
19 or communities.

20 (3) Economic development that demonstrates benefits, including,
21 but not limited to, job creation, retention, or improvement, or
22 provision of needed capital, to low- to moderate-income
23 individuals, families, or communities, including urban or rural
24 communities, or businesses or nonprofit community service
25 organizations that serve these communities.

26 (4) Activities that revitalize or stabilize low- to moderate-income
27 communities.

28 (5) Investments in or through California Organized Investment
29 Network (COIN)-certified community development financial
30 institutions (CDFIs) and investments made pursuant to the
31 requirements of federal, state, or local community development
32 investment programs or community development investment tax
33 incentive programs, if these investments directly benefit low- to
34 moderate-income individuals, families, and communities and are
35 consistent with this article.

36 (6) Community development infrastructure investments.

37 (7) Investments in a commercial property or properties located
38 in low- to moderate-income geographical areas that are consistent
39 with this article.

1 (8) Investments—~~into~~ *in* reservation-based communities.
2 “Reservation-based” means an area of land managed by a Native
3 American tribe under the jurisdiction of the federal Bureau of
4 Indian Affairs, provided that the tribe is named on the most current
5 list of “Indian Entities Recognized and Eligible to Receive Services
6 from the Bureau of Indian Affairs,” or successor document, as
7 published in the Federal Register by the Bureau of Indian Affairs.

8 (9) Investments~~into~~ *in* rural areas. “Rural area” means any open
9 country or any place, town, village, or city which by itself and
10 taken together with any other places, towns, villages, or cities that
11 it is part of, or associated with, has either a population not
12 exceeding 10,000 persons or has a population not exceeding 20,000
13 persons and is contained within a nonmetropolitan area. “Rural
14 area” also means any open country, place, town, village, or city
15 located within a Standard Metropolitan Statistical Area if the
16 population of that area does not exceed 20,000 persons and that
17 area is not part of, or associated with, *an* urban area and is rural
18 in character.

19 (c) “Community development infrastructure” means California
20 public debt (including all debt issued by the State of California or
21 a California state or local government agency) where all or a
22 portion of the debt has as its primary purpose community
23 development for, or that directly benefits, low- to moderate-income
24 communities and is consistent with subdivision (b).

25 ~~(d) “Diverse fund managers” means investment management~~
26 ~~companies (including corporations, partnerships, LLCs, trust, and~~
27 ~~other special purpose vehicles) that are at least 51 percent owned~~
28 ~~by women, veterans, minorities, or a combination of persons in~~
29 ~~those groups.~~

30 *(d) “Diverse investment managers” means investment*
31 *management organizations, including, but not limited to,*
32 *corporations, groups and persons within corporations,*
33 *partnerships, LLCs, and other special purpose vehicles that are*
34 *either located in, or actively make and hold investments in,*
35 *California and whose investment managers are comprised of at*
36 *least 51 percent women, veterans, or minorities, or a combination*
37 *of persons in those groups.*

38 (e) “Geography” means a census tract delineated by the United
39 States Bureau of the Census in the most recent decennial census.

(f) “Green investments” means investments that emphasize renewable energy projects, economic development, and affordable housing focused on infill sites so as to reduce the degree of automobile dependency and promote the use and reuse of existing urbanized lands supplied with infrastructure for the purpose of accommodating new growth and jobs. “Green investments” also means investments that can help communities grow through new capital investment in the maintenance and rehabilitation of existing infrastructure so that the reuse and reinvention of city centers and existing transportation corridors and community space, including projects offering energy efficiency improvements and renewable energy generation, including, but not limited to, solar and wind power, water and waste management, sustainable agriculture, mixed-use development, affordable housing opportunities, multimodal transportation systems, and transit-oriented development, can advance economic development, jobs, and housing.

(g) “High-impact investments” means investments that *are innovative, responsive to community needs, not routinely provided by insurers, and provide at least 50 percent social or environmental benefit to low- to moderate-income individuals, families, or communities in California.*

(h) “Insurer” means an admitted insurer as defined in Section 24, including the State Compensation Insurance Fund, or a domestic fraternal benefit society as defined in Section 10990.

(i) “Investment” means a lawful equity or debt investment, or loan, or deposit obligation, or other investment or investment transaction allowed by the Insurance Code.

(j) “Low-income” means an individual income that is less than 50 percent of the AMI, or a median family income that is less than 50 percent of the AMI in the case of a geographical area.

(k) “MSA” means a metropolitan statistical area as defined by the Director of the Office of Management and Budget.

(l) “Moderate-income” means an individual income that is at least 50 percent but less than 80 percent of the AMI, or a median family income that is at least 50 percent but less than 80 percent of the AMI in the case of a geographical area.

(m) “Nonmetropolitan area” means any area that is not located in an MSA.

1 ~~SEC. 2.~~

2 SEC. 3. Section 12939.2 of the Insurance Code is amended to
3 read:

4 12939.2. (a) The commissioner may establish and appoint a
5 California Organized Investment Network Advisory Board.

6 (b) For purposes of this section, all of the following shall apply:

7 (1) "Commissioner" means the Insurance Commissioner of this
8 state.

9 (2) "Board" means the California Organized Investment
10 Network Advisory Board.

11 (3) "Licensed attorney" means an attorney who resides in this
12 state who has successfully passed the California bar examination
13 and has been admitted to practice in this state or has otherwise
14 been licensed to practice law in this state by the State Bar of
15 California.

16 (c) The board shall include the commissioner, or his or her
17 designee, three executives in the insurance investment industry,
18 and one volunteer from each of the following categories:

19 (1) A licensed attorney practicing insurance law.

20 (2) A member of the public, appointed by the Speaker of the
21 Assembly.

22 (3) A member of the public, appointed by the Senate Committee
23 on Rules.

24 (4) A member of a consumer advocacy group.

25 (5) An affordable housing practitioner.

26 (6) A local economic development practitioner.

27 (7) A member of a financial institution or a community
28 development financial institution.

29 (8) A representative with experience seeking investments for
30 low- to moderate-income or rural communities.

31 (d) The board shall elect, from among its members, a chair.

32 (e) The term of each member shall be for two years.

33 (f) The board shall have all of the following powers and duties:

34 (1) To advise the California Organized Investment Network, or
35 any successor thereof, on the best methods to increase the level of
36 insurance industry capital in safe and sound investments while
37 providing fair returns to investors and social benefits to
38 underserved communities.

39 (2) To meet a minimum of three or more times per year, or as
40 deemed necessary by the commissioner.

(3) To facilitate contacts among executives at insurance companies, community-based organizations, and community development financial institutions.

(4) To recommend programmatic guidelines, but not specific allocations of the tax credit amount, to the California Organized Investment Network program.

(g) The members of the board shall not receive compensation from the state for their services under this section but, when called to attend a meeting of the board, may be reimbursed for their actual and necessary expenses incurred in connection with the meeting.

(h) This section shall remain in effect only until January 1, 2027, 2022, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2027, 2022, deletes or extends that date.

~~SEC. 3.~~

SEC. 4. Section 12209 of the Revenue and Taxation Code is amended to read:

12209. (a) For each year beginning on or after January 1, 1999, and before January 1, 2027, 2022, there shall be allowed as a credit against the amount of tax, as defined in Section 28 of Article XIII of the California Constitution, an amount equal to 20 percent of the amount of each qualified investment made by a taxpayer during the taxable year into a community development financial institution that is certified by the Department of Insurance, California Organized Investment Network, or any successor thereof.

(b) For purposes of determining any tax that may be imposed under Section 685 of the Insurance Code on a taxpayer not organized under the laws of this state, the amount of the credit allowed by subdivision (a) shall be treated as a tax paid under Section 12201 or Section 28 of Article XIII of the California Constitution.

(c) (1) Notwithstanding any other provision of this part, a credit shall not be allowed under this section unless the California Organized Investment Network, or its successor within the Department of Insurance, certifies that the investment described in subdivision (a) qualifies for the credit under this section and certifies the total amount of the credit allocated to the taxpayer pursuant to this section.

(2) A credit shall not be allowed by this section unless the applicant and the taxpayer provide satisfactory substantiation to,

1 and in the form and manner requested by, the Department of
2 Insurance, California Organized Investment Network, or any
3 successor thereof, that the investment is a qualified investment as
4 defined in paragraph (1) of subdivision (h).

5 (3) (A) The aggregate amount of qualified investments made
6 by all taxpayers pursuant to this section, Section 17053.57, and
7 Section 23657 shall not exceed fifty million dollars (\$50,000,000)
8 for each calendar year. However, if the aggregate amount of
9 qualified investments made in any calendar year is less than fifty
10 million dollars (\$50,000,000), the difference may be carried over
11 to the next year, and any succeeding year during which this section
12 remains in effect, and added to the aggregate amount authorized
13 for those years.

14 (B) The total amount of qualified investments certified by the
15 California Organized Investment Network in any calendar year to
16 any one community development financial institution together
17 with its affiliates, as defined in Section 1215 of the Insurance Code,
18 shall not exceed 30 percent of the annual aggregate amount of
19 qualified investments certified by the California Organized
20 Investment Network. If, after October 1, the California Organized
21 Investment Network has determined that the availability of tax
22 credits exceed their demand, then a community development
23 financial institution that has been allocated 30 percent of the annual
24 aggregate amount of qualified investments shall become eligible
25 to apply to be certified for any remaining tax credits in that calendar
26 year.

27 (C) Each year, 10 percent of the annual aggregate amount of
28 qualified investments shall be reserved for investment amounts of
29 less than or equal to two hundred thousand dollars (\$200,000). If,
30 after October 1, there remains an unallocated portion of the amount
31 reserved for investments of less than or equal to two hundred
32 thousand dollars (\$200,000), then qualified investments in excess
33 of two hundred thousand dollars (\$200,000) may be eligible for
34 that remaining unallocated portion.

35 (4) Priority among housing applications shall be given to
36 applications that support affordable rental housing, housing for
37 veterans, mortgages for community-based residential programs,
38 and self-help housing ahead of single-family owned housing.

39 (5) Priority shall be given to insurance company investors over
40 all other tax credit investors.

1 (d) The community development financial institution shall do
2 all of the following:

3 (1) Apply to the Department of Insurance, California Organized
4 Investment Network, or its successor, for certification of its status
5 as a community development financial institution.

6 (2) (A) Apply to the Department of Insurance, California
7 Organized Investment Network, or its successor, on behalf of the
8 taxpayer for certification of the amount of the investment and the
9 credit amount allocated to the taxpayer, obtain the certification,
10 and retain a copy of the certification.

11 (B) Provide in the application a detailed description of the
12 intended use of the investment funds including, but not limited to,
13 the following:

14 (i) All of the programs, projects, and services that would be
15 funded.

16 (ii) The percentage of the intended use of the investment funds
17 that would directly benefit low-to-moderate income households.

18 (iii) The percentage of the intended use of the investment funds
19 that would directly benefit rural areas.

20 (iv) The percentage of the intended use of the investment funds
21 that is a green investment as defined in Section 926.1 of the
22 Insurance Code.

23 (3) (A) Provide in the application required in paragraph (2) the
24 following information to the Department of Insurance, California
25 Organized Investment Network, or its successor:

26 (i) Name of the taxpayer.

27 (ii) Postal address of the taxpayer, or residential address of the
28 taxpayer if the taxpayer is an individual.

29 (iii) Phone number of the taxpayer.

30 (iv) Email address of the taxpayer.

31 (v) The taxpayer's California company identification number
32 for tax administration purposes.

33 (B) The information provided in subparagraph (A) shall be used
34 only for internal purposes by the Department of Insurance,
35 California Organized Investment Network, or its successor, and
36 any public disclosure of that information shall be limited to the
37 name of the taxpayer only.

38 (4) Provide an annual listing to the State Board of Equalization,
39 in the form and manner agreed upon by the State Board of
40 Equalization and the Department of Insurance, California

1 Organized Investment Network, or its successor, of the names and
2 taxpayer's California company identification numbers of any
3 taxpayer who makes any withdrawal or partial withdrawal of a
4 qualified investment before the expiration of 60 months from the
5 date of the qualified investment.

6 (5) Submit reports to the department, California Organized
7 Investment Network, or any successor thereof, as required pursuant
8 to subdivision (a) of Section 12939.1 of the Insurance Code.

9 (e) The California Organized Investment Network may certify
10 investments for the credit allowed by this section on or before
11 January 1, ~~2027~~, 2022, but not after that date.

12 (f) (1) The Insurance Commissioner may develop instructions,
13 procedures, and standards for applications, and for administering
14 the criteria for the evaluation of applications under this section.
15 The Insurance Commissioner may, from time to time, adopt,
16 amend, or repeal regulations to implement the provisions of this
17 section.

18 (2) The initial adoption of the regulations implementing this
19 section shall be deemed to be an emergency and necessary in order
20 to address a situation calling for immediate action to avoid serious
21 harm to the public peace, health, safety, or general welfare.

22 (3) Notwithstanding Chapter 3.5 (commencing with Section
23 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
24 any emergency regulation adopted or amended by the Insurance
25 Commissioner pursuant to this section shall remain in effect until
26 amended or repealed by the department.

27 (g) The Department of Insurance, California Organized
28 Investment Network, or any successor thereof, shall do all of the
29 following:

30 (1) Accept and evaluate applications for certification from
31 financial institutions and issue certificates that the applicant is a
32 community development financial institution qualified to receive
33 qualified investments. To receive a certificate, an applicant shall
34 satisfy the Department of Insurance, California Organized
35 Investment Network, or any successor thereof, that it meets the
36 specific requirements to be a community development financial
37 institution for this state program as defined in paragraph (2) of
38 subdivision (h). The certificate may be issued for a specified period
39 of time, and may include reasonable conditions to effectuate the
40 intent of this section. The Insurance Commissioner may suspend

1 or revoke a certification, after affording the institution notice and
2 the opportunity to be heard, if the commissioner finds that an
3 institution no longer meets the requirement for certification.

4 (2) Accept and evaluate applications for certification from any
5 community development financial institution on behalf of the
6 taxpayer and issue certificates to taxpayers in an aggregate amount
7 that shall not exceed the limit specified in subdivision (c), with
8 highest priority granted to those applications where the intended
9 use of the investments has the greatest aggregate benefit for
10 low-to-moderate income areas or households or rural areas or
11 households. The certificate shall include the amount eligible to be
12 made as an investment that qualifies for the credit and the total
13 amount of the credit to which the taxpayer is entitled for the year.
14 Applications for tax credits shall be accepted and evaluated
15 throughout the year. The Insurance Commissioner shall establish
16 tax credit issuance cycles throughout the year as necessary in order
17 to issue tax credit certificates to those applications granted the
18 highest priority.

19 (3) Provide an annual listing to the State Board of Equalization,
20 in the form or manner agreed upon by the State Board of
21 Equalization and the Department of Insurance, California
22 Organized Investment Network, or its successor, of the taxpayers
23 who were issued certificates, their respective National Association
24 of Insurance Commissioners company number and employer's tax
25 identification number, the amount of the qualified investment made
26 by each taxpayer, and the total amount of qualified investments.

27 (4) Include information specified pursuant to subdivision (b) of
28 Section 12939.1 of the Insurance Code in the report required by
29 Section 12922 of the Insurance Code.

30 (h) For purposes of this section:

31 (1) "Qualified investment" means an investment that is a deposit
32 or loan that does not earn interest, or an equity investment, or an
33 equity-like debt instrument that conforms to the specifications for
34 these instruments as prescribed by the United States Department
35 of the Treasury, Community Development Financial Institutions
36 Fund, or its successor, or, in the absence of that prescription, as
37 defined by the Insurance Commissioner. The investment must be
38 equal to or greater than fifty thousand dollars (\$50,000) and made
39 for a minimum duration of 60 months. During that 60-month
40 period, the community development financial institution shall have

1 full use and control of the proceeds of the entire amount of the
2 investment as well as any earnings on the investment for its
3 community development purposes. The entire amount of the
4 investment shall be received by the community development
5 financial institution before the application for the tax credit is
6 submitted. The community development financial institution shall
7 use the proceeds of the investment for a purpose that is consistent
8 with its community development mission and for the benefit of
9 economically disadvantaged communities and low-income people
10 in California.

11 (2) "Community development financial institution" means a
12 private financial institution located in this state that is certified by
13 the Department of Insurance, California Organized Investment
14 Network, or its successor, that, consistent with the legislative
15 findings, declarations, and intent set forth in Section 12939 of the
16 Insurance Code, has community development as its primary
17 mission, and that lends in urban, rural, or reservation-based
18 communities in this state. A community development financial
19 institution may include a community development bank, a
20 community development loan fund, a community development
21 credit union, a microenterprise fund, a community development
22 corporation-based lender, or a community development venture
23 fund.

24 (i) If a qualified investment is *reduced or* withdrawn before the
25 end of the 60th month and not reinvested in another community
26 development financial institution within 60 days, there shall be
27 added to the "tax," as defined in Section 28 of Article XIII of the
28 California Constitution, for the year in which the withdrawal
29 occurs, the entire amount of any credit previously allowed under
30 this section.

31 (j) In the case where the credit allowed by this section exceeds
32 the "tax," the excess may be carried over to reduce the "tax" for
33 the next four years, or until the credit has been exhausted,
34 whichever occurs first.

35 (k) The State Board of Equalization shall, as requested by the
36 Department of Insurance, California Organized Investment
37 Network, or its successor, advise and assist in the administration
38 of this section.

39 (l) On or before June 30, 2016, the Legislative Analyst's Office
40 shall submit a report to the Legislature, in compliance with Section

1 9795 of the Government Code, on the effects of the tax credits
2 allowed under this section, Section 17053.57, and Section 23657,
3 with a focus on employment in low-to-moderate income and rural
4 areas, and on the benefits of these tax credits to low-to-moderate
5 income and rural persons.

6 (m) This section shall remain in effect only until December 1,
7 ~~2027~~, 2022, and as of that date is repealed.

8 ~~SEC. 4.~~

9 *SEC. 5.* Section 17053.57 of the Revenue and Taxation Code
10 is amended to read:

11 17053.57. (a) For each taxable year beginning on or after
12 January 1, 1997, and before January 1, ~~2027~~, 2022, there shall be
13 allowed as a credit against the amount of “net tax,” as defined in
14 Section 17039, an amount equal to 20 percent of the amount of
15 each qualified investment made by a taxpayer during the taxable
16 year into a community development financial institution that is
17 certified by the Department of Insurance, California Organized
18 Investment Network, or any successor thereof.

19 (b) (1) Notwithstanding any other provision of this part, a credit
20 shall not be allowed under this section unless the California
21 Organized Investment Network, or its successor within the
22 Department of Insurance, certifies that the investment described
23 in subdivision (a) qualifies for the credit under this section and
24 certifies the total amount of the credit allocated to the taxpayer
25 pursuant to this section.

26 (2) A credit shall not be allowed by this section unless the
27 applicant and the taxpayer provide satisfactory substantiation to,
28 and in the form and manner requested by, the Department of
29 Insurance, California Organized Investment Network, or any
30 successor thereof, that the investment is a qualified investment, as
31 defined in paragraph (1) of subdivision (g).

32 (3) (A) The aggregate amount of qualified investments made
33 by all taxpayers pursuant to this section, Section 12209, and Section
34 23657 shall not exceed fifty million dollars (\$50,000,000) for each
35 calendar year. However, if the aggregate amount of qualified
36 investments made in any calendar year is less than fifty million
37 dollars (\$50,000,000), the difference may be carried over to the
38 next year, and any succeeding year during which this section
39 remains in effect, and added to the aggregate amount authorized
40 for those years.

1 (B) The total amount of qualified investments certified by the
2 California Organized Investment Network in any calendar year to
3 any one community development financial institution together
4 with its affiliates, as defined in Section 1215 of the Insurance Code,
5 shall not exceed 30 percent of the annual aggregate amount of
6 qualified investments certified by the California Organized
7 Investment Network. If, after October 1, the California Organized
8 Investment Network has determined that the availability of tax
9 credits exceed their demand, then a community development
10 financial institution that has been allocated 30 percent of the annual
11 aggregate amount of qualified investments shall become eligible
12 to apply to be certified for any remaining tax credits in that calendar
13 year.

14 (C) Each year, 10 percent of the annual aggregate amount of
15 qualified investments shall be reserved for investment amounts of
16 less than or equal to two hundred thousand dollars (\$200,000). If,
17 after October 1, there remains an unallocated portion of the amount
18 reserved for investments of less than or equal to two hundred
19 thousand dollars (\$200,000), then qualified investments in excess
20 of two hundred thousand dollars (\$200,000) may be eligible for
21 that remaining unallocated portion.

22 (4) Priority among housing applications shall be given to
23 applications that support affordable rental housing, housing for
24 veterans, mortgages for community-based residential programs,
25 and self-help housing ahead of single-family owned housing.

26 (5) Priority shall be given to insurance company investors over
27 all other tax credit investors.

28 (c) The community development financial institution shall do
29 all of the following:

30 (1) Apply to the Department of Insurance, California Organized
31 Investment Network, or its successor, for certification of its status
32 as a community development financial institution.

33 (2) (A) Apply to the Department of Insurance, California
34 Organized Investment Network, or its successor, on behalf of the
35 taxpayer, for certification of the amount of the investment and the
36 credit amount allocated to the taxpayer, obtain the certification,
37 and retain a copy of the certification.

38 (B) Provide in the application a detailed description of the
39 intended use of the investment funds including, but not limited to,
40 the following:

- 1 (i) All of the programs, projects, and services that would be
2 funded.
- 3 (ii) The percentage of the intended use of the investment funds
4 that would directly benefit low-to-moderate income households.
- 5 (iii) The percentage of the intended use of the investment funds
6 that would directly benefit rural areas.
- 7 (iv) The percentage of the intended use of the investment funds
8 that is a green investment as defined in Section 926.1 of the
9 Insurance Code.
- 10 (3) (A) Provide in the application required in paragraph (2) the
11 following information to the Department of Insurance, California
12 Organized Investment Network, or its successor:
- 13 (i) Name of the taxpayer.
- 14 (ii) Postal address of the taxpayer, or residential address of the
15 taxpayer if the taxpayer is an individual.
- 16 (iii) Phone number of the taxpayer.
- 17 (iv) Email address of the taxpayer.
- 18 (v) The taxpayer's identification number, or in the case of a
19 partnership, the taxpayer identification numbers of all the partners
20 for tax administration purposes.
- 21 (B) The information provided in subparagraph (A) shall be used
22 only for internal purposes by the Department of Insurance,
23 California Organized Investment Network, or its successor, and
24 any network or its successor shall limit all public disclosure of that
25 information to the name of the taxpayer only.
- 26 (4) Provide an annual listing to the Franchise Tax Board, in the
27 form and manner agreed upon by the Franchise Tax Board and the
28 Department of Insurance, California Organized Investment
29 Network, or its successor, of the names and taxpayer identification
30 numbers of any taxpayer who makes any withdrawal or partial
31 withdrawal of a qualified investment before the expiration of 60
32 months from the date of the qualified investment.
- 33 (5) Submit reports to the Department of Insurance, California
34 Organized Investment Network, or any successor thereof, as
35 required pursuant to subdivision (a) of Section 12939.1 of the
36 Insurance Code.
- 37 (d) (1) The Insurance Commissioner may develop instructions,
38 procedures, and standards for applications, and for administering
39 the criteria for the evaluation of applications under this section.
40 The Insurance Commissioner may, from time to time, adopt,

1 amend, or repeal regulations to implement the provisions of this
2 section.

3 (2) The initial adoption of the regulations implementing this
4 section shall be deemed to be an emergency and necessary in order
5 to address a situation calling for immediate action to avoid serious
6 harm to the public peace, health, safety, or general welfare.

7 (3) Notwithstanding Chapter 3.5 (commencing with Section
8 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
9 any emergency regulation adopted or amended by the Insurance
10 Commissioner pursuant to this section shall remain in effect until
11 amended or repealed by the department.

12 (e) The California Organized Investment Network may certify
13 investments for the credit allowed by this section on or before
14 January 1, ~~2027~~, 2022, but not after that date.

15 (f) The Department of Insurance, California Organized
16 Investment Network, or any successor thereof, shall do all of the
17 following:

18 (1) Accept and evaluate applications for certification from
19 financial institutions and issue certificates that the applicant is a
20 community development financial institution qualified to receive
21 qualified investments. To receive a certificate, an applicant shall
22 satisfy the Department of Insurance, California Organized
23 Investment Network, or any successor thereof, that it meets the
24 specific requirements to be a community development financial
25 institution for this state program as defined in paragraph (2) of
26 subdivision (g). The certificate may be issued for a specified period
27 of time, and may include reasonable conditions to effectuate the
28 intent of this section. The Insurance Commissioner may suspend
29 or revoke a certification, after affording the institution notice and
30 the opportunity to be heard, if the commissioner finds that an
31 institution no longer meets the requirement for certification.

32 (2) Accept and evaluate applications for certification from a
33 community development financial institution on behalf of the
34 taxpayer and issue certificates to taxpayers in an aggregate amount
35 that shall not exceed the limit specified in subdivision (b), with
36 highest priority granted to those applications where the intended
37 use of the investments has the greatest aggregate benefit for
38 low-to-moderate income areas or households or rural areas or
39 households. The certificate shall include the amount eligible to be
40 made as an investment that qualifies for the credit and the total

1 amount of the credit to which the taxpayer is entitled for the taxable
2 year. Applications for tax credits shall be accepted and evaluated
3 throughout the year. The Insurance Commissioner shall establish
4 tax credit issuance cycles throughout the year as necessary in order
5 to issue tax credit certificates to those applications granted the
6 highest priority.

7 (3) Provide an annual listing to the Franchise Tax Board, in the
8 form or manner agreed upon by the Franchise Tax Board and the
9 Department of Insurance, California Organized Investment
10 Network, or its successor, of the taxpayers who were issued
11 certificates, their respective tax identification numbers, the amount
12 of the qualified investment made by each taxpayer, and the total
13 amount of qualified investments.

14 (4) Include information specified pursuant to subdivision (b) of
15 Section 12939.1 of the Insurance Code in the report required by
16 Section 12922 of the Insurance Code.

17 (g) For purposes of this section:

18 (1) "Qualified investment" means an investment that is a deposit
19 or loan that does not earn interest, or an equity investment, or an
20 equity-like debt instrument that conforms to the specifications for
21 these instruments as prescribed by the United States Department
22 of the Treasury, Community Development Financial Institutions
23 Fund, or its successor, or, in the absence of that prescription, as
24 defined by the Insurance Commissioner. The investment must be
25 equal to or greater than fifty thousand dollars (\$50,000) and made
26 for a minimum duration of 60 months. During that 60-month
27 period, the community development financial institution shall have
28 full use and control of the proceeds of the entire amount of the
29 investment as well as any earnings on the investment for its
30 community development purposes. The entire amount of the
31 investment shall be received by the community development
32 financial institution before the application for the tax credit is
33 submitted. The community development financial institution shall
34 use the proceeds of the investment for a purpose that is consistent
35 with its community development mission and for the benefit of
36 economically disadvantaged communities and low-income people
37 in California.

38 (2) "Community development financial institution" means a
39 private financial institution located in this state that is certified by
40 the Department of Insurance, California Organized Investment

1 Network, or its successor, that, consistent with the legislative
2 findings, declarations, and intent set forth in Section 12939 of the
3 Insurance Code, has community development as its primary
4 mission, and that lends in urban, rural, or reservation-based
5 communities in this state. A community development financial
6 institution may include a community development bank, a
7 community development loan fund, a community development
8 credit union, a microenterprise fund, a community development
9 corporation-based lender, or a community development venture
10 fund.

11 (h) If a qualified investment is *reduced or* withdrawn before
12 the end of the 60th month and not reinvested in another community
13 development financial institution within 60 days, there shall be
14 added to the “net tax,” as defined in Section 17039, for the taxable
15 year in which the withdrawal occurs, the entire amount of any
16 credit previously allowed under this section.

17 (i) In the case where the credit allowed by this section exceeds
18 the “net tax,” the excess may be carried over to reduce the “net
19 tax” for the next four taxable years, or until the credit has been
20 exhausted, whichever occurs first.

21 (j) The Franchise Tax Board shall, as requested by the
22 Department of Insurance, California Organized Investment
23 Network, or its successor, advise and assist in the administration
24 of this section.

25 (k) On or before June 30, 2016, the Legislative Analyst’s Office
26 shall submit a report to the Legislature, in compliance with Section
27 9795 of the Government Code, on the effects of the tax credits
28 allowed under this section, Section 12209, and Section 23657,
29 with a focus on employment in low-to-moderate income and rural
30 areas, and on the benefits of these tax credits to low-to-moderate
31 income and rural persons.

32 (l) This section shall remain in effect only until December 1,
33 ~~2027~~, 2022, and as of that date is repealed.

34 ~~SEC. 5.~~

35 *SEC. 6.* Section 23657 of the Revenue and Taxation Code is
36 amended to read:

37 23657. (a) For each taxable year beginning on or after January
38 1, 1997, and before January 1, ~~2027~~, 2022, there shall be allowed
39 as a credit against the amount of “tax,” as defined in Section 23036,
40 an amount equal to 20 percent of the amount of each qualified

1 investment made by a taxpayer during the taxable year into a
2 community development financial institution that is certified by
3 the Department of Insurance, California Organized Investment
4 Network, or any successor thereof.

5 (b) (1) Notwithstanding any other provision of this part, a credit
6 shall not be allowed under this section unless the California
7 Organized Investment Network, or its successor within the
8 Department of Insurance, certifies that the investment described
9 in subdivision (a) qualifies for the credit under this section and
10 certifies the total amount of the credit allocated to the taxpayer
11 pursuant to this section.

12 (2) A credit shall not be allowed by this section unless the
13 applicant and the taxpayer provide satisfactory substantiation to,
14 and in the form and manner requested by, the Department of
15 Insurance, California Organized Investment Network, or any
16 successor thereof, that the investment is a qualified investment, as
17 defined in paragraph (1) of subdivision (g).

18 (3) (A) The aggregate amount of qualified investments made
19 by all taxpayers pursuant to this section, Section 12209, and Section
20 17053.57 shall not exceed fifty million dollars (\$50,000,000) for
21 each calendar year. However, if the aggregate amount of qualified
22 investments made in any calendar year is less than fifty million
23 dollars (\$50,000,000), the difference may be carried over to the
24 next year, and any succeeding year during which this section
25 remains in effect, and added to the aggregate amount authorized
26 for those years.

27 (B) The total amount of qualified investments certified by the
28 California Organized Investment Network in any calendar year to
29 any one community development financial institution together
30 with its affiliates, as defined in Section 1215 of the Insurance Code,
31 shall not exceed 30 percent of the annual aggregate amount of
32 qualified investments certified by the California Organized
33 Investment Network. If, after October 1, the California Organized
34 Investment Network has determined that the availability of tax
35 credits exceed their demand, then a community development
36 financial institution that has been allocated 30 percent of the annual
37 aggregate amount of qualified investments shall become eligible
38 to apply to be certified for any remaining tax credits in that calendar
39 year.

1 (C) Each year, 10 percent of the annual aggregate amount of
2 qualified investments shall be reserved for investment amounts of
3 less than or equal to two hundred thousand dollars (\$200,000). If,
4 after October 1, there remains an unallocated portion of the amount
5 reserved for investments of less than or equal to two hundred
6 thousand dollars (\$200,000), then qualified investments in excess
7 of two hundred thousand dollars (\$200,000) may be eligible for
8 that remaining unallocated portion.

9 (4) Priority among housing applications shall be given to
10 applications that support affordable rental housing, housing for
11 veterans, mortgages for community-based residential programs,
12 and self-help housing ahead of single-family owned housing.

13 (5) Priority shall be given to insurance company investors over
14 all other tax credit investors.

15 (c) The community development financial institution shall do
16 all of the following:

17 (1) Apply to the Department of Insurance, California Organized
18 Investment Network, or its successor, for certification of its status
19 as a community development financial institution.

20 (2) (A) Apply to the Department of Insurance, California
21 Organized Investment Network, or its successor, on behalf of the
22 taxpayer, for certification of the amount of the investment and the
23 credit amount allocated to the taxpayer, obtain the certification,
24 and retain a copy of the certification.

25 (B) Provide in the application a detailed description of the
26 intended use of the investment funds including, but not limited to,
27 the following:

28 (i) All of the programs, projects, and services that would be
29 funded.

30 (ii) The percentage of the intended use of the investment funds
31 that would directly benefit low-to-moderate income households.

32 (iii) The percentage of the intended use of the investment funds
33 that would directly benefit rural areas.

34 (iv) The percentage of the intended use of the investment funds
35 that is a green investment as defined in Section 926.1 of the
36 Insurance Code.

37 (3) (A) Provide in the application required in paragraph (2) the
38 following information to the Department of Insurance, California
39 Organized Investment Network, or its successor:

40 (i) Name of the taxpayer.

1 (ii) Postal address of the taxpayer, or residential address of the
2 taxpayer if the taxpayer is an individual.

3 (iii) Phone number of the taxpayer.

4 (iv) Email address of the taxpayer.

5 (v) The taxpayer's California company identification number
6 for tax administration purposes, or in the case of an "S"
7 corporation, the taxpayer identification numbers of all the
8 shareholders for tax administration purposes.

9 (B) The information provided in subparagraph (A) shall be used
10 only for internal purposes by the Department of Insurance,
11 California Organized Investment Network, or its successor, and
12 any public disclosure of that information shall be limited to the
13 name of the taxpayer only.

14 (4) Provide an annual listing to the Franchise Tax Board, in the
15 form and manner agreed upon by the Franchise Tax Board and the
16 Department of Insurance, California Organized Investment
17 Network, or its successor, of the names and taxpayer identification
18 numbers of any taxpayer who makes any withdrawal or partial
19 withdrawal of a qualified investment before the expiration of 60
20 months from the date of the qualified investment.

21 (5) Submit reports to the department, California Organized
22 Investment Network, or any successor thereof, as required pursuant
23 to subdivision (a) of Section 12939.1 of the Insurance Code.

24 (d) The California Organized Investment Network may certify
25 investments for the credit allowed by this section on or before
26 January 1, ~~2027~~, 2022, but not after that date.

27 (e) (1) The Insurance Commissioner may develop instructions,
28 procedures, and standards for applications, and for administering
29 the criteria for the evaluation of applications under this section.
30 The Insurance Commissioner may, from time to time, adopt,
31 amend, or repeal regulations to implement the provisions of this
32 section.

33 (2) The initial adoption of the regulations implementing this
34 section shall be deemed to be an emergency and necessary in order
35 to address a situation calling for immediate action to avoid serious
36 harm to the public peace, health, safety, or general welfare.

37 (3) Notwithstanding Chapter 3.5 (commencing with Section
38 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
39 any emergency regulation adopted or amended by the Insurance

1 Commissioner pursuant to this section shall remain in effect until
2 amended or repealed by the department.

3 (f) The Department of Insurance, California Organized
4 Investment Network, or any successor thereof, shall do all of the
5 following:

6 (1) Accept and evaluate applications for certification from
7 financial institutions and issue certificates that the applicant is a
8 community development financial institution qualified to receive
9 qualified investments. To receive a certificate, an applicant shall
10 satisfy the Department of Insurance, California Organized
11 Investment Network, or any successor thereof, that it meets the
12 specific requirements to be a community development financial
13 institution for this state program as defined in paragraph (2) of
14 subdivision (g). The certificate may be issued for a specified period
15 of time, and may include reasonable conditions to effectuate the
16 intent of this section. The Insurance Commissioner may suspend
17 or revoke a certification, after affording the institution notice and
18 the opportunity to be heard, if the commissioner finds that an
19 institution no longer meets the requirement for certification.

20 (2) Accept and evaluate applications for certification from any
21 community development financial institution on behalf of the
22 taxpayer and issue certificates to taxpayers in an aggregate amount
23 that shall not exceed the limit specified in subdivision (b), with
24 highest priority granted to those applications where the intended
25 use of the investments has the greatest aggregate benefit for
26 low-to-moderate income areas or households or rural areas or
27 households. The certificate shall include the amount eligible to be
28 made as an investment that qualifies for the credit and the total
29 amount of the credit to which the taxpayer is entitled for the taxable
30 year. Applications for tax credits shall be accepted and evaluated
31 throughout the year. The Insurance Commissioner shall establish
32 tax credit issuance cycles throughout the year as necessary in order
33 to issue tax credit certificates to those applications granted the
34 highest priority.

35 (3) Provide an annual listing to the Franchise Tax Board, in the
36 form or manner agreed upon by the Franchise Tax Board and the
37 Department of Insurance, California Organized Investment
38 Network, or its successor, of the taxpayers who were issued
39 certificates, their respective tax identification numbers, the amount

1 of the qualified investment made by each taxpayer, and the total
2 amount of qualified investments.

3 (4) Include information specified pursuant to subdivision (b) of
4 Section 12939.1 of the Insurance Code in the report required by
5 Section 12922 of the Insurance Code.

6 (g) For purposes of this section:

7 (1) “Qualified investment” means an investment that is a deposit
8 or loan that does not earn interest, or an equity investment, or an
9 equity-like debt instrument that conforms to the specifications for
10 these instruments as prescribed by the United States Department
11 of the Treasury, Community Development Financial Institutions
12 Fund, or its successor, or, in the absence of that prescription, as
13 defined by the Insurance Commissioner. The investment must be
14 equal to or greater than fifty thousand dollars (\$50,000) and made
15 for a minimum duration of 60 months. During that 60-month
16 period, the community development financial institution shall have
17 full use and control of the proceeds of the entire amount of the
18 investment as well as any earnings on the investment for its
19 community development purposes. The entire amount of the
20 investment shall be received by the community development
21 financial institution before the application for the tax credit is
22 submitted. The community development financial institution shall
23 use the proceeds of the investment for a purpose that is consistent
24 with its community development mission and for the benefit of
25 economically disadvantaged communities and low-income people
26 in California.

27 (2) “Community development financial institution” means a
28 private financial institution located in this state that is certified by
29 the Department of Insurance, California Organized Investment
30 Network, or its successor, that, consistent with the legislative
31 findings, declarations, and intent set forth in Section 12939 of the
32 Insurance Code, has community development as its primary
33 mission, and that lends in urban, rural, or reservation-based
34 communities in this state. A community development financial
35 institution may include a community development bank, a
36 community development loan fund, a community development
37 credit union, a microenterprise fund, a community development
38 corporation-based lender, or a community development venture
39 fund.

1 (h) If a qualified investment is *reduced or* withdrawn before
2 the end of the 60th month and not reinvested in another community
3 development financial institution within 60 days, there shall be
4 added to the “tax,” as defined in Section 23036, for the taxable
5 year in which the withdrawal occurs, the entire amount of any
6 credit previously allowed under this section.

7 (i) In the case where the credit allowed by this section exceeds
8 the “tax,” the excess may be carried over to reduce the “tax” for
9 the next four taxable years, or until the credit has been exhausted,
10 whichever occurs first.

11 (j) The Franchise Tax Board shall, as requested by the
12 Department of Insurance, California Organized Investment
13 Network, or its successor, advise and assist in the administration
14 of this section.

15 (k) On or before June 30, 2016, the Legislative Analyst’s Office
16 shall submit a report to the Legislature, in compliance with Section
17 9795 of the Government Code, on the effects of the tax credits
18 allowed under this section, Section 12209, and Section 17053.57,
19 with a focus on employment in low-to-moderate income and rural
20 areas, and on the benefits of these tax credits to low-to-moderate
21 income and rural persons.

22 (l) This section shall remain in effect only until December 1,
23 2027, 1 2022, and as of that date is repealed.